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BLYNN L. SHIDELER THE BLK LAW GROUP 3500 BROKKTREE ROAD SUITE 200 WEXFORD, PA 15090			STERRETT, JONATHAN G	
			ART UNIT	PAPER NUMBER
			3623	

DATE MAILED: 11/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/918,166

Applicant(s)

GLAZER ET AL.

Examiner

Jonathan G. Sterrett

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on 10-12-05.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>1-25-05</u> | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. This **Final Office Action** is responsive to applicant's amendment filed October 12, 2005. The applicant amended **Claims 1, 3-5, 8, 9, 11, 13-15, 18 and 19**. Currently **Claims 1-20** are pending.

#### *Response to Amendments*

2. The rejection of **Claims 1, 3-5, 8, 11, 13-15 and 18** under 35 USC 112 2<sup>nd</sup> for indefinite language has been withdrawn.

The rejection of **Claims 1-20** under 35 USC 103 is maintained.

#### *Response to Arguments*

3. The applicant's arguments have been fully considered, but they are not persuasive.

The applicant states on page 8, that "**as the examiner acknowledges the Detjen patent fails to teach or suggest contacting of some of the customers via the network, or have some of the customers directly schedule over the network**".

The examiner respectfully disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871

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(CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

Detjen does not teach where the central controller operates via a network to:

**i) contact a plurality of [a plurality of] the customers concerning the scheduling of appointments.**

Detjen discloses a comprehensive scheduling system that operates over a network to provide scheduling and calendaring for medical professionals.

The applicant argues on page 9 line 7-9 that **"it is not clear that the Wang patent teaches a calendar system that will actually notify at least some customers via the network concerning the scheduling of appointments as set forth in (1) above"** where (1) reads **"the central controller operates via a network to (1) contact a plurality of the customers concerning the scheduling of appointments via the network"**. Furthermore the applicant argues regarding Wang on page 9 line 12-13 **"but there is no teaching here that such are concerning the scheduling of appointments"** and line 15-16 **"this also does not discuss the contacting of customers regarding the scheduling of appointments."**

The examiner respectfully disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness

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by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The examiner would further point out that Wang does clearly teach scheduling of appointments over the network (see column 5 line 46-48 and 58) where emails can be sent to people over a network regarding scheduling a calendar event and receiving a response regarding scheduling a person for that event, i.e. appointment (column 13 line 58-65). This would be a direct scheduling over the network.

In response to applicant's argument on page 10 line 9-12 that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "filtered schedule") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

As noted below, Detjen meets the claimed limitations of providing appointment times that are determined by sponsor parameters and that are specific to the individual customer. Wang teaches providing a graphical appointment calendar over a network directly to a user where the calendar is

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specific to that user. Claims 1 and 11 are rejected over the combination of Detjen in view of Wang.

Regarding the applicant's argument on page 10 line 23-24 that there is no teaching or suggestion of supplying graphical appointment calendar to the customers, the examiner respectfully disagrees.

Wang teaches providing a graphical appointment calendar to customers. This calendar is illustrated in Figure 8, which shows the graphical appointment calendar provided to customers of various events. Other figures illustrate the graphical nature of Wang's appointment calendar – see also Figure 3 “July 1996 calendar applet” which also shows a graphical appointment calendar. See column 4 line 50-57 where the caplet provides a popup alert – see also column 10 line 55-59.

Regarding the applicant's argument on page 11 line 7-13 (Claims 6 & 16) that “there is no teaching or suggestion of using these [sponsor parameters], together with specific customer requirements to provide a ‘filtered schedule’ to the customers for the customers to schedule from as in the present claimed invention (ind. Claims 1 and 11)”, the examiner respectfully disagrees.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., “filtered schedule” and “specific customer requirements”) are not recited in the rejected claim(s). Although the claims are interpreted in light of the

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specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Regarding the applicant's argument on page 11 line 14-20 that Wang does not "teach or suggest the contacting of customers in response to changing parameters", the examiner respectfully disagrees. In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986). As noted below, Detjen teaches the sponsor parameters and Wang teaches contacting users when there is a change in the parameters associated with a calendar event. The limitations of Claims 8 and 18 is rejected over Detjen in view of Wang.

In response to applicant's argument on page 11 line 21-29 that the examiner's conclusion of obviousness is based upon improper hindsight reasoning, it must be recognized that any judgment on obviousness is in a sense necessarily a reconstruction based upon hindsight reasoning. But so long as it takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made, and does not include knowledge gleaned only from the applicant's disclosure, such a reconstruction is proper. See *In re McLaughlin*, 443 F.2d 1392, 170 USPQ 209 (CCPA 1971).

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 1-8, 10-18 and 20** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Detjen US 5,970,466**, hereinafter **Detjen**, in view of **Wang US 6,380,959**, hereinafter **Wang**.

Regarding **Claim 1**, Detjen teaches:

**a sponsor controlled customer database containing information relevant to individual customers who periodically need to schedule appointments with the sponsoring organization;**

column 4 line 5-9, database used for accessing appointment records. The database is used in the preferred embodiment for a doctor's office, i.e., the sponsors, who control the customer appointment database.

column 6 line 48-50, patients of doctors (i.e. customers) are listed in the database –see line 61-62, appointments for individual patients (i.e. customers) made on a regular basis (i.e. periodically).



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**a set of sponsor parameters associated with each customer which define possible appointment times for a customer;**

column 5 line 25, possible appointment times for a customer are defined by color coding of time slots in the appointment calendar view.

Column 5 line 31, set of available times is illustrated by vertical bar graphs (i.e. parameters) showing which doctors and examination rooms are available for the particular patient.

**a central controller managing a schedule for the sponsoring organization, wherein the central controller operates via a network to**

column 3 line 46-50, system runs on a network such that a central controller manages the schedule and all computers access a common set of data.

**ii) supply available appointment times via the network directly to a plurality of the customers, with the available appointment times that are supplied are determined by the sponsor parameters associated with the individual customer, whereby the supplied appointment times are specific to the individual customer and**

column 4 line 33-34, parameters maintained in system for individual customers, e.g. appointments scheduled for that customer.

Column 5 line 10-12, available appointment times are supplied to customers as determined by their parameters (i.e. the appointments they already have scheduled).

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**iii) receive scheduling information via the network directly from a plurality of the customers.**

Column 5 line 52-54, the user (i.e. customer) can enter schedule information into the system for making an appointment.

Detjen does not teach where the central controller operates via a network to:

**i) contact a plurality of the customers concerning the scheduling of appointments via the network,**

**ii) supply available appointment times via the network directly to a plurality of the customers.**

Wang teaches a central controller operating via a network to:

**i) contact a plurality of the customers concerning the scheduling of appointments via the network,**

column 5 line 46-48, Java program provides event related transactions, including, line 57, sending an email to users (i.e. via the network).

column 13 line 54-57, Java program example contacts customers and receives confirmation of their intent to attend (i.e. scheduling appointment).

**ii) supply available appointment times via the network directly to a plurality of the customers.**

Column 13 line 46-60, customers receive via the network directly available appointment times. In this case the capplet is providing available appointment

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times to book an event on a person's calendar, once they select available dates.

Since this is happening while the person is on the internet, it is occurring over the network.

Wang and Detjen address issues associated with providing computer-based calendaring and scheduling, thus both Wang and Detjen are analogous art.

Wang teaches that his invention provides high performance in applications that need to perform multiple concurrent activities, such as scheduling applications where there are several users that need to be contacted and confirmed at the same time (column 2 line 64-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Detjen, regarding providing computerized scheduling, to include the step of providing automatic contacting and confirmation of a schedule appointment, as taught by Wang, because it would provide high performance in a scheduling application, where there is the need for users to be contacted and confirmed for a schedule appointment.

Regarding **Claim 2**, Detjen and Wang teach all the limitations of Claim 1 above, and Detjen teaches:

**wherein the network is the Internet.**

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Column 3 line 64-65, internet utilized for program.

Column3 line 46-50, system runs on a networked application.

Regarding **Claim 3**, Detjen and Wang teach all the limitations of Claim 1 above, and Detjen teaches:

**wherein the controller supplies a graphical appointment calendar via the network to a plurality of the customers with the available appointment times that have been determined by the sponsor parameters associated with the individual customer being graphically illustrated,**

Figure 2, the controller supplies a graphical appointment calendar to a user with available appointment times – in this example for Dr Julie Johnson, available appointment times are graphically illustrated. Since Dr Johnson is being scheduled for a particular customer, the open slots on Dr Johnson's schedule are available appointment times comprise sponsor parameters associated with the customer. The open slots are graphically illustrated

**wherein the user can directly schedule an appointment via the network by selecting the icon associated with the desired appointment time.**

Column 5 line 52-54, user makes an appointment by clicking (i.e. selecting) in the status bar (i.e. icon) opposite the time for starting the appointment, i.e. at the desired appointment time.

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Detjen does not teach where a person making a calendar selection over the network is a customer, where the calendar selection is a graphical representation and where the graphical calendar provides appointment times that are specific to an individual.

Wang teaches where a person making a calendar selection over the network is a customer, where the calendar selection is a graphical representation and where the graphical calendar provides appointment times that are specific to an individual.

Column 10 line 40-45, the user receives a graphical representation of a calendar over the internet. – see also line 55, the views are specific to a particular user.

Column 13 line 50-58, users can make an appointment over the internet (i.e. network) by making a selection on a calendar.

Wang and Detjen address issues associated with providing computer-based calendaring and scheduling, thus both Wang and Detjen are analogous art.

Wang teaches that providing graphical calendar representation over the internet to a plurality of users allows the those users to conveniently share information (column 2 line 1-5).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Detjen, regarding providing computerized scheduling, to include the step of providing users with individual calendars specific to that user over the network, as taught by Wang, because it would allow a plurality of users to conveniently share schedule information over the internet.

Regarding **Claim 4**, Detjen and Wang teach all the limitations of Claim 1 above, and Detjen does not teach:

**wherein the controller uses electronic mail to contact a plurality of the customers concerning the scheduling of appointments and uses the World Wide Web to supply available appointment times that have been determined by the sponsor parameters associated with the individual customer to a plurality of the customers and to receive scheduling information directly from a plurality of the customers.**

Wang teaches:

**wherein the controller uses electronic mail to contact a plurality of the customers concerning the scheduling of appointments and**

column 5 line 57, an email is sent to users – e.g. column 13 line 42-45 to contact them concerning the scheduling of appointments.

**uses the World Wide Web to supply available appointment times that have been determined by the sponsor parameters associated with the individual customer to a plurality of the customers and**

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column 5 line 41-42, invention is a web calendar, i.e. runs on the WWW to supply available appointment time to users (i.e. customers).

**to receive scheduling information directly from a plurality of the customers.**

Column 13 line 55-57, confirmation of scheduling appointment (i.e. information) is received from users.

Wang and Detjen address issues associated with providing computer-based calendaring and scheduling, thus both Wang and Detjen are analogous art.

Wang teaches that his invention provides high performance in applications that need to perform multiple concurrent activities, such as scheduling applications where there are several users that need to be contacted and confirmed at the same time (column 2 line 64-65).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the collective teachings of Detjen and Wang, regarding providing computerized scheduling and automatic customer contacting, to further include the step of providing automatic contacting and confirmation of a schedule appointment, as taught by Wang, because it would provide high performance in a scheduling application, where there is the need for users to be contacted and confirmed for a schedule appointment.

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Regarding **Claim 5**, Detjen and Wang teach all the limitations of Claim 1 above, and Detjen does not teach:

**wherein the controller contacts a plurality of the customers concerning the scheduling of appointments via off-line communication techniques.**

Official Notice is taken that it is old and well known in the art of scheduling for customers to be contacted through off-line communication techniques. Prior to the Internet, customers were scheduled for appointments using offline techniques such as telephone and US postal mail.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the collective teachings of Detjen and Wang, regarding providing computerized scheduling and customer contacting, to further include the step of contacting customers via off-line techniques, because it would ensure customers who were unable to be contacted online could be contacted to schedule an appointment.

Regarding **Claim 6**, Detjen and Wang teach all the limitations of Claim 1 above, and Detjen teaches:



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**wherein the sponsor parameters for each customer include the availability of sponsor personnel, the availability of sponsor resources, and the time to be allotted for the scheduled appointment.**

Column 5 line 31, set of available times is illustrated by vertical bar graphs (i.e. parameters) showing which doctors (i.e. sponsor personnel) or examination rooms (i.e. sponsor resources) at which times are available for the particular patient to be scheduled for an appointment.

Regarding **Claim 7**, Detjen and Wang teach all the limitations of Claim 1 above, and Detjen teaches:

**wherein the controller supplies the sponsor with a real time master schedule via the network.**

Column 5 line 41-42, the controller supplies a user (i.e. sponsor) with a master schedule of all the schedules in a group on one screen.

Column 8 line 41-43, schedules can be refreshed instantaneously by hitting the F5 key

Column 8 line 35-40, refresh rate of schedules can be set down to 0 seconds (i.e. real time).

Regarding **Claim 8**, Detjen and Wang teach all the limitations of Claim 1 above, and Detjen teaches:

**changes occurring in the sponsor parameters.**

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Figure 4 menu command "Modify Appointment" for Doctor Julie Johnson (i.e. sponsor parameter).

Detjet does not teach

**wherein the controller contacts a plurality of the customers via the network concerning rescheduling of appointments due to changes in the sponsor parameters.**

Wang teaches:

**wherein the controller contacts a plurality of the customers via the network concerning rescheduling of appointments due to changes in the sponsor parameters.**

Column 7 line 35-38, caplets are activated when an event occurs, such as a change in a schedule, or when activated by a user.

Column 13 line 46-48, Caplets specialize in internet transactions, including email, that are associated with a web calendar event, including a change in a calendar event, i.e. a reschedule.

Wang and Detjen address issues associated with providing computer-based calendaring and scheduling, thus both Wang and Detjen are analogous art.

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Wang teaches that his invention provides high performance in applications that need to perform multiple concurrent activities, such as scheduling applications that can be triggered by calendar events(column 2 line 64-65 & column 13 line 42-44).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the collective teachings of Detjen and Wang, regarding providing computerized scheduling, to further include the step of providing automatic contacting regarding changes in a sponsor parameters affecting a schedule appointment, as taught by Wang, because it would provide high performance in a scheduling application, where there is the need for users to be contacted when changes occur in sponsor parameters.

Regarding **Claim 10**, Detjen and Wang teach all the limitations of Claim 1 above, and Detjen teaches:

**wherein the sponsor is a medical professional.**

Column 4 line 65-67, sponsors are a group of doctors, e.g. Dr. Julie Jones.

**Claims 11-18 and 20** recite similar limitations as those recited in **Claims 1-8 and 10** above, and are therefore rejected under the same rationale.

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6. **Claims 9 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Detjen** in view of **Wang** and further in view of **Levine, US 5,289,531**, hereinafter **Levine**.

Regarding **Claim 9**, Detjen and Wang teach all the limitations of Claim 1 above, and Detjen and Wang do not teach:

**wherein the rescheduling of appointments is prompted by customer preferences wherein a preferential appointment time becomes available and the customer is subsequently notified via the network by the controller.**

Levine teaches:

**wherein the rescheduling of appointments is prompted by customer preferences wherein a preferential appointment time becomes available and the customer is subsequently notified via the network by the controller.**

Column 4 line 59-63, customer preferences for a new appointment time causes office to reschedule based on their preferences for a new time.

Figure 4 #55 controls processor (i.e. controller).

Column 8 line 60-65, controller automatically calls over a network customers for rescheduling of appointments.

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Wang, Detjen and Levine address issues associated with providing computer-based calendaring and scheduling, thus all are analogous art.

Levine teaches that his invention saves time through automating the rescheduling of office appointments (column 1 line 53-56).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the collective teachings of Detjen and Wang, regarding providing computerized scheduling and automatic notification to customers upon schedule changes, to further include the step of notifying the customer when a preferential time becomes available, as taught by Levine, because it would save time through automating the rescheduling process.

**Claim 19** recites similar limitations as those recited in **Claim 9** above, and is therefore rejected under the same rationale.

### ***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory

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period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is 571-272-6881. The examiner can normally be reached on 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGS 10-26-2005



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